REMARKS

I. Formalities

Claims 1-16, 29, and 31-40 are in the subject patent application. Applicant amends claims 1, 5, 7, 14-16, 29, and 39-40 to place the claims in better condition for allowance, and cancels claim 30 without prejudice. Applicant also amends claims 2-13, 15-16, and 39-40 to correct minor typographical mistakes unrelated to patentability. No new matter has been added herein.

Applicant submits this paper with a Request for Continued Examination (RCE) under 37 C.F.R. §1.114. This paper is a proper submission under that section because it is fully responsive to Final Office Action, dated January 17, 2007, and because it presents new arguments in favor of patentability.

The Advisory Action indicates that Applicant's Response to Final Office Action was not entered. This Response incorporates the amendments and remarks from the Response to Final Office Action, filed April 17, 2007.

II. Response to the 35 U.S.C §112 Rejection

The USPTO rejects claims 1, 14, 29, 39, and 40 under 35 U.S.C. §112, second paragraph, as being indefinite because the Applicant does not clearly explain what "compliant with Section 105 of Internal Revenue Code of 1986" is referring to.

"Compliant with Section 105 of Internal Revenue Code of 1986" can refer to complying with, acting in accordance with, or abiding by Section 105 of Internal Revenue Code of 1986. Accordingly, Applicant respectively requests the §112 rejection be withdrawn.

III. Response to the 35 U.S.C. §103 Rejection

The USPTO rejects claims 1-16 and 29-40 under 35 U.S.C. §103(a) as being allegedly unpatentable over U.S. Patent Publication No. 2002/0184148 to Kahn et al. (hereinafter "Kahn") in view of U.S. Patent Publication No. 2002/0049617 to Lencki et al. (hereinafter "Lencki") and in further view of U.S. Patent Publication No. 2001/0037214 to Raskin et al. (hereinafter "Raskin"). Claim 30 is cancelled herein so the rejection of claim 30 is moot. The remaining portion of this rejection is respectfully traversed in view of the comments hereinbelow.

A. Remarks Directed to Claim 1

Claim 1, as amended, requires, in part, "calculating the direct contribution amount to the year-to-year accruable health spending account compliant with Section 105 of Internal Revenue Code of 1986 by subtracting either the selection allocation or the option cost from the defined contribution value." The combination of Kahn, Lencki, and Raskin fail to disclose, teach, or suggest this step.

Kahn and Lencki fail to teach this step. Lencki teaches a health care benefits system where the employer contributes a specific dollar amount and where the employee is allowed to select benefits and options from the benefits package categories 20, shown in FIG. 2 of Lencki. Allocating a portion of the contribution by the employer to a year-to-year accruable health

spending account compliant with Section 105 of Internal Revenue Code of 1986 is not one of the benefits package categories 20. Kahn disclose using a FSA (flexible spending account), but FSAs are not compliant with Section 105 of Internal Revenue Code of 1986 and are not accruable year-to-year, as discussed in paragraph 005 of Applicant's Specification.

Moreover, Raskin teaches a heath spending account "[o]n the last day of the plan year, the 'Current Year Amount Available' is transferred to the 'Previous Year Amount Available.' At some employer elected date, all non-zero 'Previous Year Amount Available' fields are reduced to zero." Paragraph 0046 of Raskin. Therefore, according to Raskin, the Previous Year Amount Available can be used to reimburse expenses from the previous year and not the current year. Consequently, Raskin fails to teach a year-to-year accruable heath spending account compliant with Section 105 of Internal Revenue Code of 1986.

In light of the foregoing remarks, Applicant respectfully submits that Kahn, Lencki, and Raskin, either alone or in combination, cannot teach, suggest, or otherwise render obvious the feature of calculating the direct contribution amount to the year-to-year accruable health spending account compliant with Section 105 of Internal Revenue Code of 1986 by subtracting either the selection allocation or the option cost from the defined contribution value, as required by independent claim 1. Applicant therefore respectfully requests that amended independent claim 1 be allowed.

B. Remarks Directed to Claims 2-16

Claim 2-16 depend, directly or indirectly, on independent claim 1. Dependent claims must be construed to include all of the limitations of the claims from which they depend, as required by 37 C.F.R. 1.75(c) and M.P.E.P. 608.01(n). The deficiencies of the combination of Kahn, Lencki, and Raskin in relation to claim 1 are discussed supra. Therefore, claims 2-16, which depend from independent claim 1, are also not anticipated or rendered obvious by the combination of Kahn, Lencki, and Raskin for at least the same reasons as listed earlier for claim 1, as well as their own limitations, and should also be allowed for at least those same reasons.

Additionally, claim 5, as amended, requires, in part, "presenting a predicted contribution amount for the year-to-year accruable health spending account." As discussed above, none of Kahn, Lencki, or Raskin disclose, teach, or suggest a year-to-year accruable health spending account, and thus cannot teach presenting a predicted contribution amount for the year-to-year accruable health spending account.

Claim 7, as amended, requires, in part, "calculating a predicted contribution amount for the year-to-year accruable health spending account by subtracting the option cost from the defined contribution value." As discussed above, none of Kahn, Lencki, or Raskin disclose, teach, or suggest a year-to-year accruable health spending account, and thus cannot teach calculating a predicted contribution amount for the year-to-year accruable health spending account by subtracting the option cost from the defined contribution value.

Claim 14, as amended, requires, in part, "transferring a first amount from an employer funded account to the year-to-year accruable health spending account for the member, the first amount substantially equivalent to the directed contribution amount determined in said

determining step." As discussed above, none of Kahn, Lencki, or Raskin discloses, teach, or suggests a year-to-year accruable health spending account, compliant with Section 105 of Internal Revenue Code of 1986, for a member and thus cannot teach transferring a first amount from an employer funded account to the year-to-year accruable health spending account. Thus, claim 14 is therefore further allowable for at least this additional reason.

Claim 15, as amended, requires, in part, "withdrawing a sum from the year-to-year accruable health spending account to reimburse the member for a medical expense." As discussed above, none of Kahn, Lencki, or Raskin disclose, teach, or suggest a year-to-year accruable health spending account, compliant with Section 105 of Internal Revenue Code of 1986, for a member and thus cannot teach withdrawing a sum from the year-to-year accruable health spending account to reimburse the member for a medical expense. Thus, claim 15 is therefore further allowable for at least this additional reason.

Claim 16, as amended, requires, in part, "withdrawing a first sum from a flexible spending account to reimburse the member for a medical expense; and withdrawing a second sum from the year-to-year accruable health spending account to reimburse the member for the medical expense when the first sum is less than the medical expense." The combination of Kahn, Lencki, and Raskin do not teach or suggest withdrawing a first sum from a flexible spending account and withdrawing a second sum from the year-to-year accruable health spending account. Kahn does disclose using a FSA to reimburse medical expenses, but FSAs are not compliant with Section 105 of Internal Revenue Code of 1986 and are not accruable year-to-year. Raskin, as discussed above, does not teach a year-to-year accruable health spending account. Nowhere within the four corners of Kahn, Lencki, or Raskin is using a combination of a flexible spending account and a year-to-year accruable health spending account to reimburse a

member for a medical expense disclosed or suggested. Thus, claim 16 is therefore further allowable for at least this additional reason.

C. Remarks Directed to Claim 29

Claim 29, as amended, requires, in part, "carrying forward any unused balance in the accruable health spending account for reimbursing the employee for qualified medical expenses during a subsequent year."

As argued in the Response to Office Action, dated June 12, 2006, and incorporated herein by reference, Kahn and Lencki do not teach carrying forward any unused balance in the accruable health spending account for reimbursing the employee for qualified medical expenses incurred during a subsequent year.

Raskin does not provide the missing teaching of Kahn and Lencki. As discussed above, Raskin teaches "[a]t the end of a plan year, the funds remaining for the current year, if any, are transferred to the 'Previous Year Amount Available' to honor claims filed after the plan year provided the claim is filed within X number of weeks." Paragraph 0037 of Raskin. Accordingly, Raskin does not disclose carrying forward any unused balance in the accruable health spending account for reimbursing the employee for qualified medical expenses during a subsequent year, as required by independent claim 29.

Accordingly, Applicant respectfully submits that Kahn, Lencki, and Raskin, either alone or in combination, cannot teach, suggest, or otherwise render obvious amended independent

claim 29. Applicant therefore respectfully requests that amended independent claim 29 be allowed.

D. Remarks Directed to Claims 31-38

Claim 31-38 depend, directly or indirectly on independent claim 29. Dependent claims must be construed to include all of the limitations of the claims from which they depend, as required by 37 C.F.R. 1.75(c) and M.P.E.P. 608.01(n). The deficiencies of the combination of Kahn, Lencki, and Raskin in relation to claim 29 are discussed supra. Therefore, claims 31-38, which depend from independent claim 29, are also not anticipated or rendered obvious by the combination of Kahn, Lencki, and Raskin for at least the same reasons as listed earlier for claim 29, as well as their own limitations, and should also be allowed for at least those same reasons.

Furthermore, claim 31 requires, in part, "crediting to the accruable health spending account a directed contribution amount equal to the defined contribution less the portion allocated for payment of the premium charge." As previously argued, Lencki does not teach an accruable health spending account and thus cannot teach crediting to the accruable health spending account a directed contribution amount equal to the defined contribution less the portion allocated for payment of the premium charge. Neither Kahn nor Raskin provide the missing teachings of Lencki. Thus, claim 31 is therefore further allowable for at least these additional reasons.

Claim 37 requires, in part, "wherein said debiting the accruable health spending account comprises the use of a debit card or credit card associated with the accruable health spending account." As argued at page 15 in the Response to Office Action, dated June 12, 2006, Kahn

teaches a system that allows the Employer to provide fund to cover the Employer's payroll. Nowhere within the four corners of Kahn is there a teaching that debiting the accruable health spending account comprises the use of a debit card or credit card associated with the accruable health spending account, where the accruable health spending account is compliant with Section 105 of Internal Revenue Code of 1986. Neither Kahn nor Raskin provide the missing teachings of Lencki. Thus, claim 37 is therefore further allowable for at least this additional reason.

Claim 38 requires, in part, "[t]he accruable health spending account is not individually funded but instead is associated with a pooled fund maintained by the employer." As previously discussed, Kahn teaches a system where the Employer's bank can transmit a wire to a bank to cover the payroll. Nowhere within the four corners of Kahn does it teach that the accruable health spending account is not individually funded but instead is associated with a pooled fund maintained by the employer, where the accruable health spending account is compliant with Section 105 of Internal Revenue Code of 1986. Neither Lencki nor Raskin provide the missing teachings of Kahn of associating the accruable health spending account with a pooled fund maintained by the employer. Thus, claim 38 is therefore further allowable for at least this additional reason.

E. Remarks Directed to Claim 39

Claim 39, as amended, requires, in part, "calculating a contribution amount to be paid by the employer to a year-to-year accruable health spending account compliant with section 105 of the Internal Revenue Code of 1986 by subtracting from the defined contribution amount the dollar amount of the contribution of the employer to each insurance option selection received for the member; and transferring the calculated contribution amount to the year-to-year accruable

health spending account compliant with section 105 of the Internal Revenue Code of 1986 for the member."

Neither Kahn nor Lencki disclose, teach, or suggest these steps. As previously discussed Kahn and Lencki fail to teach a year-to-year accruable heath spending account compliant with section 105 of the Internal Revenue Code of 1986. Raskin fails to provide provides the missing teachings. As discussed above, Raskin fails to teach year-to-year accruable health spending account compliant with section 105 of the Internal Revenue Code of 1986. Accordingly, Raskin cannot teach calculating a contribution amount to be paid by the employer to a year-to-year accruable health spending account compliant with section 105 of the Internal Revenue Code of 1986 by subtracting from the defined contribution amount the dollar amount of the contribution of the employer to each insurance option selection received for the member and transferring the calculated contribution amount to the year-to-year accruable health spending account compliant with section 105 of the Internal Revenue Code of 1986 for the member, as required by claim 39.

In light of the foregoing remarks, Applicant respectfully submits that Kahn, Lencki, and Raskin, either alone or in combination, cannot teach, suggest, or otherwise render obvious amended independent claim 39. Applicant therefore respectfully requests that amended independent claim 39 be allowed.

F. Remarks Directed to Claim 40

Claim 40, as amended, requires, in part, "establishing a year-to-year accruable health spending account, compliant with section 105 of the Internal Revenue Code of 1986, for the benefit of the member." The combination of Kahn, Lencki, and Raskin fail to disclose, teach, or suggest this step.

As discussed above and in the Response to Office Action, dated June 12, 2006, at pages 10-11, neither Kahn nor Lencki discloses or suggests an accruable health spending account for a member. Kahn does disclose using a FSA to reimburse medical expenses, but FSAs are not compliant with Section 105 of Internal Revenue Code of 1986 and not accruable.

Likewise, as previously argued, Raskin does not provide the missing teaching of an accruable health spending account, compliant with section 105 of the Internal Revenue Code of 1986, for the benefit of the member.

Furthermore, claim 40, as amended, also requires, in part, "withdrawing a first sum from the flexible spending account to reimburse the member for a medical expense; [and] withdrawing a second sum from the year-to-year accruable health spending account to reimburse the member for a remainder of the medical expense when the first sum is less than the medical expense." Neither Kahn nor Lencki teach these steps because neither reference teaches a method of paying out-of-pocket health care expenses using a flexible spending account and a year-to-year accruable health spending account.

Raskin does not provide the missing teachings of Kahn and Lencki. Raskin teaches a "Previous Year Amount Available" to pay only claims from the previous year and a "Current Year Amount Available" to pay only claims for the current year. See Paragraphs 0037 and 0046 of Raskin. Thus, Raskin does not teach withdrawing a first sum from the flexible spending account to reimburse the member for a medical expense and withdrawing a second sum from the year-to-year accruable health spending account to reimburse the member for a remainder of the medical expense when the first sum is less than the medical expense, as required by claim 40.

Finally, claim 40, as amended, requires, in part, "carrying forward any unused balance in the year-to-year accruable health spending account for reimbursing the member for qualified medical expenses incurred during a subsequent year." The combination of Kahn, Lencki, and Raskin also fail to teach this element because none of cited references teach a year-to-year accruable health spending account.

In light of the foregoing remarks, Applicant respectfully submits that Kahn, Lencki, and Raskin, either alone or in combination, cannot teach, suggest, or otherwise render obvious amended independent claim 40. Applicant therefore respectfully requests that amended independent claim 40 be allowed.

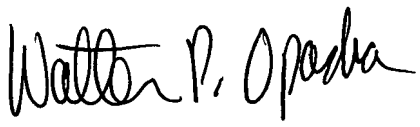
CONCLUSION

Applicant has made an earnest attempt to place this case in condition for allowance. In light of the remarks set forth above, Applicant respectfully, requests reconsideration and allowance of all of the pending claims.

Applicant encloses all fees believed due in connection with this Response to Outstanding Office Action, the Petition to Extend Time under 37 C.F.R. §1.136(a), and the Request for Continued Examination. However, the Commissioner for Patents is hereby authorized to charge any additional required fees necessitated by these fillings, or credit any overpayment, to Account No. 02-4467.

If matters can be discussed by telephone to further the prosecution of this application, Applicant invites Examiner Frenel to call the undersigned attorney at the Examiner's convenience.

Respectfully submitted,



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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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